



Warwick Legal Network

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**HOW TO ENFORCE A JUDGMENT  
IN...**

**A PRACTICAL HANDBOOK**

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This practical guide provides a general overlook into the main legal and administrative aspects regarding the enforcement of judgments in different countries worldwide.

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## **“HOW TO ENFORCE A JUDGMENT IN...”**

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## CHAPTER 1

### HOW TO ENFORCE A JUDGMENT IN ARGENTINA

**(A) What is the applicable law?**

- (a) Domestic judgments: Civil and Commercial Code of the Nation
- (b) Foreign judgments: National Constitution and International Treaties

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Country-by-country
- Point-to-point treaties
- Model treaties on the handover of surveillance of offenders on parole or parole
- Minimum rules for the treatment of prisoners
- United Nations rules for the protection of minors deprived of liberty

**(C) What types of judgments in commercial matters are enforceable?**

Those that have reached all jurisdictions and where there are no more appeal instances.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

Always. There are no trials without the lawyers.

**(E) Is a security for costs needed?**

No, this is not needed.

**(F) Which court is the competent court?**

The court that corresponds to the matter to be judged and to the territorial jurisdiction.

**(G) Can the debtor oppose to the enforcement?**

Yes, but they will remain rebellious, and the execution will be carried out anyway; without their participation.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes absolutely, the precautionary measures are immediate.

**(I) How do you secure the effectiveness of an immovable property?**

A previous domain report is requested and confirming the ownership of the debtor, that asset is frozen.

**(J) Is there a Bailiff in your jurisdiction?**

(K) No

(L) Is the judgment creditor entitled to interest? If so, on what basis is calculated?

Yes, interest is always added to the loan rate of the National Bank.

Reference contact in Argentina:

**Andres Willa**

Attorney-at-law

Partner

at **Estudio Willa**

[awilla@estudiowilla.com](mailto:awilla@estudiowilla.com)



## CHAPTER 2

### HOW TO ENFORCE A JUDGMENT IN AUSTRIA

**(A) What is the applicable law?**

- (a) Domestic judgments: Enforcement Regulations
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary, Act 29/2015 30 July on international legal cooperation in civil matters.

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties
- New York Convention

**(C) What types of judgments in commercial matters are enforceable?**

In principle, all judgments are enforceable after the expiration of the time limit for appeal.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

In principle, there is no obligation to hire a lawyer. For a legal remedy there is a need for a lawyer.

**(E) Is a security for costs needed?**

Not needed, but if an administrator acts, his minimum remuneration must be paid in advance as well as the court fees.

**(F) Which court is the competent court?**

- (c) monetary claims, which are based on the movable property: general jurisdiction of the obligated party.
- (d) immovable property: District court in which the immovable property is located

**(G) Can the debtor oppose to the enforcement?**

The debtor has the right to file an appeal to the execution order within 14 days; the filing of the appeal does not suspend the execution of the granted execution.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, it is possible to obtain a block on an account based on a lien.

**(I) How do you secure the effectiveness of an immovable property?**

- Appointment of an administrator
- Note in the land registry

**(J) Is there a Bailiff in your jurisdiction?**

Yes, there are court bailiffs.

**(K) Can one freely choose the person of the bailiff?**

No, the specific person is ordered by the competent court. The enforcement/execution must be first granted by the judge. But the actual enforcement actions like attachment are not the responsibility of the judge or judicial officer, but of the enforcement bodies (bailiffs). The competent court is the District Court at the place of residence of the obligated party (or District court in which the immovable property is located).

**(L) How much does this cost?**

A fee must be paid at the beginning for the action of the court (and thus of the bailiff). The costs are claimed from the debtor.

**(M) In which field with they work?**

The Bailiff must execute the execution order at the place that is specified in the application for execution authorization. Their field of application is mainly the execution of movable property, eviction (for example of a flat) and the execution for restitution, but they are also used in the compulsory auction of real estate.

**(N) How do they work?**

The bailiff is allowed to search the flat of the debtor if it's necessary. There is also the possibility to instruct the opening of locked doors or locked boxes. If there is resistance, police assistance can be requested. The bailiff defines where the items are sold (on the internet, at the auction house, in the auction hall or at the place where the seized objects are located).

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, according to the legal or agreed interested rate.

Reference contact in Austria:

**Hanna Lemberger**

Trainee Lawyer

at **Zumtobel Kronberger Rechtsanwälte OG**

**office @ eulaw.at**

+43 662 62 45 00



## CHAPTER 3

### HOW TO ENFORCE A JUDGMENT IN BELGIUM

**(A) What is the applicable law?**

- (a) Domestic judgments: Judicial code
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

**(C) What types of judgments in commercial matters are enforceable?**

All judgements are enforceable, in principle even provisionally enforceable.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

In principle a lawyer is not needed unless a collection of undisputed debts is initiated; a bailiff suffices.

**(E) Is a security for costs needed?**

No, this is not needed.

**(F) Which court is the competent court?**

Judge of seizures.

**(G) Can the debtor oppose to the enforcement?**

The debtor can ask the judge for the verdict not to be provisionally enforceable, but this is rarely adopted.

The debtor can oppose the enforcement (not the enforceability) at the judge of seizures.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, this is called a seizure with a third party.

**(I) How do you secure the effectiveness of an immovable property?**

The judgment or the mortgage registration concerning an immovable property needs to be registered at the 'Office of Legal Certainty'.

**(J) Is there a Bailiff in your jurisdiction?**

Yes.

**(K) Can one freely choose the person of the bailiff?**

In principle yes, unless in some cases where a bailiff is appointed by the court (in most cases when you are granted free judicial proceedings). A bailiff only has territorial jurisdiction in the district where he has been appointed however.

**(L) How much does this cost?**

The bailiff will invoice his costs to the attorney or to the client. The costs made in light of a judicial assignment are provided for by law, but the bailiff can choose his tariffs when executing a non-judicial assignment (e.g., amicable recovery or making findings).

The costs must be borne by the debtor in principle (if he can be found and the costs can be recovered of course).

**(M) In which field with they work?**

They have a variety of competences: they serve writs of summons and judgements, can lay seizures, can be used to make findings which can be used as evidence in court, and which are extremely hard to disprove.

Another competence they have is the collection of undisputed commercial debts, which is a procedure in Belgium which can grant you an executable title without having to go to court.

**(N) How do they work?**

The bailiff is allowed to enter a person's home if he has an executable title. When the debtor does not give permission, he needs to be accompanied by a police officer. A locksmith can be used as well in case of forced entry. Locked furniture can also be opened, but the bailiff has an obligation to not make any unnecessary damage to the property.

The goods can be sold at a public place, online or even amicably (when the debtor sells the property himself and the profits go to the bailiff).

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, but the rate depends on the case at hand and what the judge decides. The legal interest rate is 1.50% in 2022, but the interest rate of for example commercial transactions is 8%.

**(P) The digital bailiff**

The bailiff has an option to serve documents digitally to an e-mail address which the counterparty chose for the digital serving of documents, or which he knows is an e-mail address used by the counterparty. This happens through a secure platform. In order for the serving to be done correctly, the receiving party needs to accept the document by using its digital passport (or that of its director) within 24 hours of the sending of the document. If this does not happen within this time period or if the receiving party explicitly refuses, the serving of the document will be deemed not to have happened and the bailiff will have to serve the document in the conventional way.

Reference contacts in Belgium:

**Sebastiaan Meeuwens**

Lawyer

at **Legalis Advocaten**

sebastiaan.meeuwens@legalis.be

+32 13 671201



**Evelien Pijfers**

Lawyer

at **Everest**

evelien.pijfers@everest-law.com

+32 (0) 33760200



## CHAPTER 9

### HOW TO ENFORCE A JUDGMENT IN ENGLAND

#### **(A) What is the applicable law?**

(a) Domestic judgments: Civil Procedure Rules 1998 as amended (CPR). Judgments to be enforced for money judgments in Scotland and Northern Ireland (and vice versa) require an application to be made for registration of a certificate for enforcement under the Civil Jurisdiction and Judgments Act 1982 (1982 Act).

(b) Foreign judgments: Brussels I Regulation 44/2001 (proceedings started in EU Member State before 10.01.15. Brussels I (Recast) Regulation 1215/2012 (10.01.15 to 31.12.20). Foreign Judgments (Reciprocal Enforcement) Act 1933 (FCA 1933) (also applies to some EU Member States where relevant bilateral treaty in place). Administration of Justice Act 1920 (AJA 1920) (Mainly applies to Commonwealth countries and British Overseas Territories) includes Cyprus & Malta. Common law rules apply where no applicable treaty in place with UK. A foreign judgment will need to be final and conclusive. The Judgment Creditor will need to bring an action in the English Courts based on a simple debt.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Convention 1968 applies to judgments in Gibraltar and some dependent territories of EU Member States.
- 2005 Hague Convention on Choice of Agreements ( Dependent on when the choice of agreement was entered into).
- 2007 Lugano II Convention applies to UK proceedings prior to 01/01/21 and can be enforced in any EU Member State/Iceland/Norway/Switzerland

#### **(C) What types of judgments in commercial matters are enforceable?**

Domestic:

- Money Judgments
- Default Judgments (can be subject to an application to set aside)
- Judgments ordering or prohibiting the doing of acts or injunctions
- Declaratory Judgments
- Judgment awards made without notice (relate to provisional measures- enforceable, but can be subsequently set aside)

Foreign:

- Money Judgments
- Default Judgments (if there was no submission to the jurisdiction) and Judgments made without notice awards (if the judgment/order has been served), foreign decisions granting provisional measures
- Declaratory (recognised under common law regime) – enforceable under European regime but not under the statutory or common law regime.

Some other types of judgments – there are separate rules relating to insolvency (both under the European and common law regime). Arbitration awards and specific European regulations that apply to wills and succession and matrimonial matters.

### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

A Party does not need legal representation and can act in person (Litigant in person) or can instruct a Solicitor or a barrister (direct access).

#### **(E) Is a security for costs needed?**

A challenge can be made under the provisions of Article 44 (1) of the Recast Brussels Regs.

An application can be made under S.3 in respect of persons applying for the registration of judgments.

There are also provisions under Part II of AJA 1920 and FCA 1933, regarding enforcement making it necessary for claimants residing in those countries to which those Acts apply to give security.

CPR 74 concerning Security for costs was amended following exit day (31.12.20) and omitted reference to the Lugano Convention and Judgments Regulation, save for some transitional and saving provisions.

In respect of any appeal proceedings, it may be possible to obtain security against a judgment creditor who is resident overseas or if certain other provisions apply.

#### **(F) Which court is the competent court?**

Proceedings that require the recognition and enforcement of foreign judgments in England & Wales should be brought in the High Court.

#### **(G) Can the debtor oppose to the enforcement?**

Having obtained a registration order under the Brussels Regulation 2001, Brussels Convention 1968, Lugano Convention 2007, AJA 1920 and FCA 1933, there is a period of time to challenge or appeal and no steps can be taken to enforce until the application/appeal is finalised.

Under Article 44(1) of the Brussels Recast, it is possible to limit and challenge enforcement proceedings.

In respect of other enforcement proceedings not mentioned above, it may be possible to apply for injunctive relief.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

You must apply to the Court for a further Order following registration (called an Interim Third Party Debt Order and then apply for it to be made final).

**(I) How do you secure the effectiveness of an immovable property?**

You must apply to the Court for a further Order following registration (Called an Interim Charging Order – You must apply for it to be made final). It may be possible to further apply to the Court for an Order for Sale of the property, following the making and registration of the Final Charging Order.

**(J) Is there a Bailiff in your jurisdiction?**

Yes, called High Court Enforcement Officers (HCEO).

**(K) Can one freely choose the person of the bailiff?**

Yes, HCEO's are authorized by the Government. Can be instructed through the High Court Enforcement Officers Association or direct.

**(L) How much does this cost?**

HCEO fees are recovered in full from the judgment debtor if enforcement is successful. If unsuccessful, the judgment creditor would normally only have to pay a compliance fee.

**(M) In which field with they work?**

In terms of monies owed in respect of an individual - please see below. The HCEO also has greater powers in respect of entry to commercial premises to remove stock, vehicles, goods, machinery etc. for sale at auction.

The HCEO can also enter into a debt repayment plan with the Judgment Debtor.

**(N) How do they work?**

The HCEO may visit the judgment debtor to secure payment or agree a payment plan. Goods may be removed and sold at auction, which includes vehicles, jewellery, goods, stock, equipment, to the value of the judgment debt.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Interest may be payable at the rate of 8% per annum, once registered in the High Court. (The amount stated in the foreign judgment will have to be converted to Pounds Sterling at the time for applying for enforcement) or at the interest rate provided for in the foreign judgment.

Reference contact in England:

**Kevin Harrison**

Lawyer

at **ebl miller rosenfalck**

[kevin.harrison@ebl-mr.com](mailto:kevin.harrison@ebl-mr.com)

+44 (0)7780 452 597



## **CHAPTER 11**

### **HOW TO ENFORCE A JUDGMENT IN HUNGARY**

#### **(A) What is the applicable law?**

- (a) Domestic judgments: Act LIII of 1994 (“Enforcement Act”) and regarding Enforcement Suit Procedures and as a base act: Act CXXX of 2016 (“Civil Procedure Act”).
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels I Regulation); Act XXVIII of 2017 on Private International Law.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

#### **(C) What types of judgments in commercial matters are enforceable?**

Basically, all judgments with the 3 conjunctive conditions:

- (a) the resolution to be enforced sets forth an obligation (condemnation) and
- (b) It is final and non-appealable, or where the resolution is preliminarily enforceable
- (c) 3.) the deadline for fulfilment has elapsed.

#### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

In principle a lawyer is not needed. A bailiff suffices.

#### **(E) Is a security for costs needed?**

No security for costs is needed, but the bailiff asks his starting fee in advance and only acts when it is credited on the bailiff account (except for the swift payment order on bank accounts, now they are doing it first and fast).

#### **(F) Which court is the competent court?**

The court that heard the matter in the first instance, but it differs in EU Matters: the first instance court having its seat in the city of the second instance court in which city the debtor resides (in Budapest, the Central District Court of Buda).

#### **(G) Can the debtor oppose to the enforcement?**

The person or entity requesting enforcement or any other interested party whose right or legitimate interest is violated by an action or omission by the bailiff may submit an enforcement demurrer, to be submitted to the bailiff. The bailiff must forward the same to the court implementing enforcement. Moreover, there are the so-called Enforcement Civil Suit Procedures (1. Proceeding for the termination and limitation of enforcement; 2.

Enforcement Claim [when something is occupied and this thing is a property of a third person and not of the debtor], 3. Lawsuit for reservation tolerance).

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, attachment order, transfer order.

**(I) How do you secure the effectiveness of an immovable property?**

By registering it in the Land Registry.

**(J) Is there a Bailiff in your jurisdiction?**

There are court bailiffs.

**(K) Is the judgement creditor entitled to interest? If so, on what basis is it calculated?**

Based on what the judgement says that is enforced. It depends.

Reference contact in Hungary:

**dr. András REINHARDT**

Attorney-at-law

Partner

at **Squarra & Partners**

reinhardt@squarra.hu

+36 1 474 2080



## **CHAPTER 18**

### **HOW TO ENFORCE A JUDGMENT IN SPAIN**

**(A) What is the applicable law?**

- (a) Domestic judgments: Civil Procedure Act 7th January 2000
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary, Act 29/2015 30 July on international legal cooperation in civil matters

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

**(C) What types of judgments in commercial matters are enforceable?**

Most of them with the only limiting factors being Spanish public Policy. When rendered in default, mainly depends on the correct service of proceedings.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

The applicant must grant a power of attorney in favour of local procurators. The application must be signed by a Spanish lawyer too.

**(E) Is a security for costs needed?**

No security for costs is needed.

**(F) Which court is the competent court?**

The court that heard the matter in the first instance.

**(G) Can the debtor oppose to the enforcement?**

The debtor can oppose the adoption of specific measures laid down in the decision granting enforcement by initiating appeal proceedings within 5 days. Enforcement is not suspended.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, since 2011 most of the banks have subscribed a special agreement.

**(I) How do you secure the effectiveness of an immovable property?**

The court orders a preventive annotation of seizure in the corresponding public register of property. Must be confirmed every 4 years.

**(J) Is there a Bailiff in your jurisdiction?**

No, there is not.

**(K) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Different annual rates apply. Before the judgment, the legal base rate since the claim is filed; after the judgment, the rate is increased by 2 %.

Reference contact in Spain:

**Gloria Vinyals**

Lawyer

at **Bufete Mañá-Krier-Elvira**

gv@bmk.es

+34 93 4878030

